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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/065,341	10/07/2002	Timothy Feiya Su		2206

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TIMOTHY SU  
5715 138TH PL SE  
BELLEVUE, WA 98006

EXAMINER

ROBERTSON, DAVID

ART UNIT	PAPER NUMBER
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3623

MAIL DATE	DELIVERY MODE
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05/08/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

**Application No.**

10/065,341

**Applicant(s)**

SU, TIMOTHY FEIYA

**Examiner**

Dave Robertson

**Art Unit**

3623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 17 December 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 December 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                               | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>none</u> . | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. This is a non-final office action examining pending claims 1-6.

#### ***Specification***

2. The disclosure is objected to because of the following: Paragraph [0031] of the specification (and also of the preliminary amendment to the specification filed 12/17/2002) refers to a Figure 11. It is not apparent that Figure 11 of the originally filed drawings remains part of the specification as the amended specification lists only Figures 1-7. Paragraphs [0033], [0034], and [0051] in the original specification refer to Figures 12 and 13, which also appear to be cancelled by the amendment.

Appropriate correction is required.

#### ***Claim Objections***

3. Claims 1-6 are objected to because of the following informalities: The claims are not in an acceptable format. See MPEP 608.01(m) Form of Claims. Each claim must be in the form of a single sentence ending with a period, with each element or step set out by a line indentation. See also 37 C.F.R. 179(i). For example, Claim 1 is several sentences combined and the elements of the system are not set out by a line indentation. Claims 2-6 have no concluding period (.).
4. Claims 2-6 are objected to because the claims refer to different statutory classes of invention without an apparent conforming relationship. For example, Claim 2 recites

"A method as recited in claim 1..." whereas Claim 1 recites "A system"; Claim 6 recites

"A system as recited in claim 5" whereas Claim 5 recites "A method."

Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 1-6 recite a system "which is able to" assign tasks to staff, but, since the claims do not set forth any steps involved in the method/process, it is unclear what method/process applicant is intending to encompass. A claim is indefinite where it merely recites a use without any active, positive steps delimiting how this use is actually practiced. In addition, regarding claims 2, 3, 4, and 6, the phrase "such as" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. Claims 5 and 6 lack definiteness because the phrase "and more" in Claim 5 fails to limit what "more" is being provided, and in Claim 6 "A system...which goes beyond merely accomplishing each task in the allotted time span..." fails to define the bounds of what the system "goes beyond." See MPEP § 2173.05(d).

Appropriate correction is required.

***Claim Rejections - 35 USC § 101***

7. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

8. Claims 1-6 are rejected under 35 U.S.C. 101 because the claimed recitation of a use of claims 2-5, without setting forth any steps involved in the process, results in an improper definition of a process, i.e., results in a claim which is not a proper process claim under 35 U.S.C. 101. Likewise, the system claims 1 and 6 do not set forth any structural components of the system with functionality associated with the components. See for example *Ex parte Dunki*, 153 USPQ 678 (Bd.App. 1967) and *Clinical Products, Ltd. v. Brenner*, 255 F. Supp. 131, 149 USPQ 475 (D.D.C. 1966).

9. Claims 1-6 are rejected under 35 U.S.C. 101 because the disclosed invention is inoperative and therefore lacks utility. The claims are inoperative because the claims either recite systems having function with no relationship of the asserted function to the structural elements, or methods without setting forth steps in the process nor relation to the related systems.

***Claim Rejections - 35 USC § 102***

10. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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11. Claims 1-6 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Fields et al (US 5111391 A).

Fields teaches computer-implemented methods and a system (with user interface) for assigning staff to tasks based on skills required (columns 2-5), using weighted (prioritized) criteria (column 1 from line 40) at remote (and several) locations (abstract), with supervision and equipment needs (column 1 line 38) and manpower assignments based on availability (column 5), the system having a user-interface for interactive display and control (see Figure 4B).

### ***Conclusion***

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: The following issued US patents and published US patent applications, issued or published on or before the date of the present invention, each teach computer-implemented systems and methods for making staff schedules as a function of available resources as well as employee skill level, availability and priority: Andre et al. (US 20020143597 A1); Beck et al. (US 6381640 B1); Donnelly et al. (US 6049776 A), Barr et al. (US 5182705 A), and Stipanovich (US 5117353 A).

13. These citations are not meant to suggest an exhaustive search of all possible prior art in the field of the invention as claimed and further search in patent, non-patent, and foreign literature may as well find additional teachings relevant to the present invention. Applicant is encouraged to review the cited art referenced below and consider such in any amendments to the claims submitted in any response, accordingly.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dave Robertson whose telephone number is 571-272-8220. The examiner can normally be reached on 8:15am to 5:15pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz can be reached on 571-272-6729. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

dcr

  
C. MICHELLE TARAE  
PRIMARY EXAMINER